

**STATEMENT OF THE HONORABLE DANNY K. DAVIS
AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE
AND AGENCY ORGANIZATION
HEARING ON**

**THE COUNTDOWN TO COMPLETION: IMPLEMENTING THE NEW DEPARTMENT OF
HOMELAND SECURITY PERSONNEL SYSTEM**

March 2, 2005

Chairman Porter, I would like to welcome you, new members, and returning members on both sides of the aisle to the first Federal Workforce and Agency Organization Subcommittee hearing.

Last February, the Subcommittee on Civil Service and Agency Organization held a joint hearing with our Senate counterparts on the then *proposed* Department of Homeland Security (DHS) personnel regulations. At that hearing, I stated that we had embarked on a sad and troubling era in the history of the civil service, and I asked if agencies were being granted exemptions from Title V in order to fix inefficient regulations or to change what is simply inconvenient for management.

The answer is now painfully clear. It is as if DHS management was put in a room and told, "Come up with your dream personnel system. You don't have to worry about fairness or credibility. Just tell us what would make your life easier and more convenient." It appears that they did, and DHS put their recommendations in the regulations, right down to Section 9701.406, which states that employee performance expectations do not have to be put into writing!!

These are the same expectations that will determine whether or not an employee receives a pay raise, still not one word of these expectations must be

put into writing. DHS did allow one concession though -- expectations are to be communicated to an employee before an employee can be held accountable to them. For that, employees should be grateful.

If putting employee expectations into writing is too onerous for DHS managers, then asking them to negotiate with unions is practically out of the question. DHS is prohibited from bargaining over “the number, types, and grades of employees and the technology, methods, and means of performing work.” This includes individual components of DHS, which are prohibited from bargaining over these subjects at their own discretion. DHS even went so far as to reject a proposal by the unions to bargain over personnel changes AFTER the changes have been implemented and have been shown to have an adverse impact on the affected employees.

Now I am sure that we are going to hear to today that all this is being done in the name of national security. But let me caution witnesses from the outset that their answers to questions on these matters need to be more substantive than that. It simply is not enough to say that national security prevents DHS from putting employee performance expectations in writing, or that it is in the interest of national security for the Secretary of DHS to have sole authority to appoint members to DHS’s internal Mandatory Removal Panel or Homeland Security Labor Relations Board. Concern for national security alone cannot account for why most of the regulations have been defined as “implementing directives,” and why they are not so much as

outlined in the regulations. These regulations and implementing directives are not fair, they are not credible, and they are not transparent.

Members on both side of the aisle should be outraged. These regulations go beyond the need for DHS to have personnel flexibility. These regulations reflect DHS's and this Administration's desire to have unfettered and unchecked authority over the civil service. Period.

As one article I read on DHS and DOD personnel regulations noted, we are going "back to the past." Back 120 years to when Andrew Jackson was president – when there were only about 20,000 federal employees, and the work required few skills. Back to the days when the entire federal workforce faced possible replacement after each election, and newly installed politicians doled out jobs to reward campaign workers, donors, and party operatives.

Wasn't it earlier this year that it came to light that DOD gave political and noncareer employees higher pay raises than career employees? These were across the board pay raises for political appointees, and they were not based on merit or individual performance. The irony of DOD's actions is that these political appointees are responsible for our national security, but they are not held to the same standards as rank-in-file federal employees. Yes, we are indeed, 'Back to the Past.'

Thank you, Mister Chairman.